

TOXIC AND HAZARDOUS MATERIALS(A) PURPOSE

These regulations are intended to protect the public health and general welfare by ensuring that storage and handling of toxic and hazardous materials be regulated in a manner which will protect the quality of the groundwater on Nantucket Island.

(B) AUTHORITY

These regulations are adopted by the Town of Nantucket Board of Health, as authorized by Massachusetts General Law, Chapter 111, Section 31.

These regulations supercede all previous regulations adopted by the Board of Health dealing with the storage and handling of toxic and hazardous materials.

(C) PREAMBLE

The storage and handling of toxic/hazardous materials in the Town of Nantucket represents a potentially serious threat to ground water quality. The current business and commercial areas, some of which are located in the recharge areas for the public wells and the drainage areas to surface waters, present a threat to water quality.

(D) FINDINGS

The Town of Nantucket finds that:

The ground water underlying this island is the sole source of its existing and future water supply, including drinking water;

The ground water aquifer is integrally connected with, and flows into, the surface water, lakes, streams and marshes which constitute significant recreational and economic resources of the island used for water-related recreation, fishing and shellfishing.

Accidental spills and discharges of petroleum products and other toxic and hazardous materials will likely occur by reason of increasing construction, commercial and industrial development, population and vehicular traffic on the island of Nantucket.

DEFINITIONS(A) Discharge

The term "discharge" means the accidental, negligent or intentional spilling, leaking, pumping, pouring, emitting, emptying, dumping or other disposing of toxic or hazardous material upon or into any land or water on the island of Nantucket. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin or landfill.

The term "discharge" as used and applied in this regulation does not include the following:

1. Proper disposal of any material in a sanitary or industrial landfill that has received and maintained all necessary legal approvals for that purpose;
2. Application of fertilizers and pesticides in accordance with label recommendations and with regulations of the Massachusetts Pesticide Control Board;
3. Application of road salts in conformance with the Snow and Ice Control Program of the Massachusetts Department of Public Works, and
4. Disposal of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by Title V of the Massachusetts Environmental Code and the Town of Nantucket Board of Health Regulations.

(B) Toxic or Hazardous Materials

The term "toxic or hazardous material" means any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged on this island. "Toxic or hazardous materials" include, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalides and includes products such as pesticides, herbicides, solvents and thinners. The following activities, without limitation, are presumed to involve the use of toxic or hazardous materials, unless and except to the extent that anyone engaging in such an activity

can demonstrate the contrary to the satisfaction of the Board of Health.

- \* Airplane, boat and motor vehicle service and repair
- \* Boat manufacturing
- \* Chemical and bacteriological laboratory operation
- \* Cabinet making
- \* Dry cleaning
- \* Electronic circuit assembly
- \* Metal plating, finishing and polishing
- \* Motor and machinery service and assembly
- \* Painting, wood preserving and furniture stripping
- \* Pesticide and herbicide application
- \* Photographic processing
- \* Printing

The Board of Health may, consistent with this definition, and by authority of Chapter 111, Section 31, issue regulations further identifying specific materials and activities involving the use of materials which are toxic or hazardous.

(C) "Owner or Operator"

These terms shall mean for the purposes of 63.00 et seq. (1) in the case of a vessel, any person owning, operating or chartering by demise such vessel, (2) in the case of a site, any person owning or operating or in possession of such site, and (3) in the case of an abandoned site, any person who owned, operated, or otherwise controlled activities at such site immediately prior to such abandonment. The term shall not include a person, who without participating in the management of a vessel or site holds indicia of ownership primarily to protect his security interest in said vessel or site.

(D) "Person"

This term shall mean for the purposes of 63.00 et seq. any agency or political subdivision of the federal government or the commonwealth, any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association, or other entity, and any officer, employee, or agent of such person, and any group of persons.

PROHIBITIONS

- (A) The discharge of toxic or hazardous materials

by any person on the island of Nantucket is prohibited.

(B) Outdoor storage of toxic or hazardous materials by any person is prohibited, except in product-tight containers which are protected from the elements, leakage, accidental negligent or intentional damage and vandalism, and which are stored in accordance with all applicable requirements of Section 63.03 of this regulation. For purposes of this subsection, road salts and fertilizer shall be considered as hazardous materials.

63.03

STORAGE, CONTROLS, REGISTRATION AND INVENTORY

(A) Except as exempted below, every owner, and every operator at which toxic or hazardous materials are stored in quantities totaling at any time more than 25 gallons liquid volume or 50 pounds dry weight, shall register with the Agent of the Board of Health the types and quantities of materials stored, location and method of storage. The Board of Health or its Agent may require an inventory of such materials be maintained on the premises and be reconciled with purchase, use, sales and disposal records on a monthly basis, in order to detect any product loss. Registration required by this subsection shall be submitted within 60 days of the effective day of this regulation, and annually thereafter. Maintenance and reconciliation of inventories shall begin with the same 60-day period. Exemptions: registration and inventory requirements shall not apply to the following:

1. Fuel oil stored in conformance with Massachusetts Fire Prevention Regulations or
2. The storage of toxic and hazardous materials at a single family or two-family dwelling, except where such materials are stored for use associated with a professional or home occupation use.

63.04

CHEMICAL RESISTANT SURFACES AND CONTAINMENT

(A) Containers of toxic or hazardous materials for commercial uses are required to be stored on or above an impervious, chemically resistant surface compatible with the material being stored, and owners are required to make provisions to properly contain the product in the case of accidental spillage. For commercial uses existing prior to the effective date of this regulation,

August 24, 1990, the Board of Health or its Agent may require or waive such compliance to the extent permitted by the General Laws.

63.05      REPORT OF SPILL AND LEAKS

(A) Every person having knowledge of a spill, leak or other loss of toxic hazardous materials believed to be in excess of 10 gallons shall immediately report the spill or loss of same to the Board of Health or other public safety official.

63.06      ENFORCEMENT

(A) The provisions of this regulation shall be enforced by the Agent of the Board of Health. The agent of the Board of Health may, to the extent permitted by law, enter upon any premises at any reasonable time to inspect for compliance.

(B) Upon request of the Agent of the Board of Health, the owner or operator of any premises at which toxic or hazardous materials are used or stored shall furnish all information required to enforce and monitor compliance with this regulation, including a complete list of all chemicals, pesticides, fuels, and other toxic or hazardous materials used or stored on the premises, a description of measures taken to protect storage containers from vandalism, corrosion and spillage and the means of disposal of all toxic or hazardous wastes produced on the site. A sample of wastewater disposed to on-site septic systems, drywells or sewage treatment systems may be required by the Agent of the Board of Health.

(C) All records pertaining to storage, removal and disposal of toxic or hazardous materials shall be retained by the owner or operator for no less than three years, and shall be made available for review upon the request of the agent of the Board of Health.

(D) Certification of conformance with the requirements of this regulation by the Agent of the Board of Health shall be required prior to issuance of construction and occupancy permits for any non-residential uses.

63.07      VIOLATION

(A) Violations of regulations under 63.00 et seq. shall be enforced as provided in this section 63.07

(B) with specific monetary penalties for violation pursuant to 63.08 rather than as provided in the general regulations of 67.01 and 67.05.

(B) Written notice of any violation of this regulation shall be given to the owner and operator by the Agent of the Board of Health, specifying the nature of the violation, any corrective measures that must be undertaken, including containment and cleanup of discharged materials, any preventive measures required for avoiding future violations and for a schedule of compliance. Requirements specified in such a notice shall be reasonable in relation to the public health hazards involved and the difficulty of compliance. The cost of containment and cleanup shall be borne by the owner and operator of the premises.

63.08 PENALTY

(A) Penalty for failure to comply with any provisions of this regulation shall be \$200.00 per day of violation, after notice thereof under Section 63.07 (B).

63.09 APPEAL

Any action by the Agent shall be appealable to the Board of Health in accordance with Section 67.04.

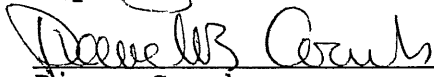
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August 22, 1990  
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August 23, 1990  
Date Published